

G. MARK ALBRIGHT, ESQ. (#001394)
JORGE L. ALVAREZ, ESQ. (#014466)
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
801 South Rancho Drive, Suite D-4
Las Vegas, Nevada 89106
T: (702) 384-7111
F: (702) 384-0605
gma@albrightstoddard.com
jalvarez@albrightstoddard.com

JOE JOHN ANDREW SOLSENG, ESQ. (NBN 11717)
SCHROETER GOLDMARK & BENDER
810 Third Avenue, Suite 500
Seattle, Washington 98104
Tel: 206-622-8000
Fax: 206-682-2305
solseng@sgb-law.com

Attorneys for Plaintiffs James and Pamela Coffee

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JAMES COFFEE, an Individual, and PAMELA
COFFEE, an Individual,

Plaintiffs,

vs.

WYNDHAM RESORT DEVELOPMENT CORP.,
WORLD MARK, THE CLUB, a California
Corporation, and DOES 1 THROUGH 40,
INCLUSIVE,

Defendants.

CASE NO.: 2:20-CV-1352-APG-DJA

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO EXTEND CERTAIN
DISCOVERY DEADLINES AND
AMEND CURRENT DISCOVERY
PLAN AND SCHEDULING ORDER
[ECF NO. 38]**

[SECOND REQUEST]

Plaintiffs JAMES COFFEE and PAMELA COFFEE (collectively, "Plaintiffs" or the
"Coffees") and Defendants WYNDHAM RESORT DEVELOPMENT CORPORATION and
WORLD MARK, THE CLUB, a California Corporation (collectively, "Defendants"), by and
through their respective counsel of record, hereby stipulate and agree, subject to this Court's
approval, to extend the current discovery deadlines and amend the Discovery Plan and Scheduling

LAW OFFICES
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89106
LAS VEGAS, NEVADA 89106

1 Order (ECF No. 38) by ninety (90) days. This is the second request to extend the discovery deadlines
2 in this matter. The Parties are in agreement that the requested extension is in the interest of all
3 parties to allow them to diligently conduct necessary discovery. The parties submit that this
4 additional discovery extension is sought in good faith and will not unduly delay these proceedings.

5 Based on this Court's granting the Unopposed Motion to Extend Certain Discovery
6 Deadlines and Amend Discovery Plan and Scheduling Order (ECF No. 38), the current discovery
7 deadlines are as follows: Initial Expert disclosure: March 11, 2021; Rebuttal expert disclosure:
8 April 12, 2021; Discovery cut-off May 10, 2021; Dispositive Motions: June 9, 2021, and the Pre-
9 trial Order: July 9, 2021.

10 In compliance with LR 6-1 and 26-3, the parties submit that good cause exists to extend the
11 above-referenced discovery deadlines by 90 days.

12 **DISCOVERY COMPLETED**

13 The Joint Discovery Plan and Scheduling Order was entered herein on September 18, 2020
14 [ECF No. 27]. Plaintiffs provided their Initial Disclosures on September 24, 2020, and a Supplement
15 thereto on October 5, 2020, which included Plaintiff's computation of damages. Defendants served
16 their Initial Disclosures on September 24, 2020.

17 Plaintiffs served their First Set of Interrogatories and First Set of Requests for Production of
18 Documents to Defendants on December 23, 2020.

19 The parties filed an Unopposed Motion to Extend Certain Discovery Deadlines and Amend
20 Discovery Plan and Scheduling Order on December 30, 2020 [ECF No. 36], which was granted by
21 the Court on January 15, 2021 [ECF No. 38].

22 Defendants served their First Set of Interrogatories to Plaintiff and First Set of Requests for
23 Production of Documents to Plaintiff on January 7, 2021.

24 Defendants responded to Plaintiff's First Set of Interrogatories and First Set of Requests for
25 Production on Documents on February 8, 2021. Defendants served their First Supplement to Initial
26 Disclosures on February 8, 2021, disclosing more than 1,500 pages of documents. The parties have
27 discussed holding a meet-and-confer to discuss Defendants' responses to the First Set of Requests
28 for Production sometime during the week of February 22, 2021.

1 Plaintiff responded to Defendants' First Set of Interrogatories and First Set of Requests for
2 Production of Documents on February 8, 2021.

3 **DISCOVERY THAT REMAINS TO BE COMPLETED**

4 The parties intend to serve additional written discovery on each other based on the current
5 discovery responses. The Parties also continue to anticipate that they will be requesting to take at
6 least four depositions, which numbers may increase as discovery continues. Furthermore,
7 Defendants expressed that they would like to take in-person depositions of Plaintiffs in this matter,
8 thus additional time is needed in light of certain Covid-19 restrictions and preferences as it is
9 believed Plaintiffs are in vulnerable categories because of age.

10 Moreover, Plaintiffs recently requested a meet and confer with respect to Defendants'
11 objections and responses to the First Set of Requests for Production. Defendants also intend to
12 request a meet and confer with respect to certain of Plaintiffs' responses to written discovery. The
13 parties anticipate that they may need to file discovery motions if an agreement cannot be reached
14 on these issues. As such, additional time will be needed for the parties to confer on their disputes
15 and attempt to resolve the disputes via the meet and confer requirements, then allow the court to
16 rule on any matters in which an agreement cannot be made, and finally, in the event additional
17 responses are required, provide those responses.

18 Also, Plaintiffs believe that there is insufficient time within the current discovery deadlines
19 to resolve their objections to Defendants' responses to the First Set of Requests for Production and
20 to enable them to comply with the current expert disclosure deadline. Based thereon, the parties
21 agree the additional 90 days of discovery would assist them to resolve the pending discovery
22 disputes and comply with the other discovery case deadlines.

23 **REASON WHY THE REMAINING DISCOVERY CANNOT BE COMPLETED**
24 **WITHIN THE TIME LIMITS SET BY THE CURRENT SCHEDULING ORDER**

25 Despite the parties diligence in conducting discovery to date, as set forth above, the parties
26 recently exchanged responses to written discovery propounded on each other and have some
27 disagreements with respect to discovery productions. The parties are currently in the process of
28 attempting to resolve those disagreements via meet and confer requirements, but anticipate that court
intervention may be needed. The parties agree that this will delay discovery process. Furthermore,

1 Plaintiffs believe that there is insufficient time within the current discovery deadlines to both resolve
 2 their discovery objections with Defendants, particularly if court intervention is needed, and comply
 3 with the current expert disclosure deadline which is just 21 days away. Therefore, the parties agree
 4 that an additional extension of 90 days will allow them to resolve their discovery disputes
 5 appropriately without impacting other case deadlines. The length of the requested extension should
 6 not result in prejudice to any party.

7 This is the second extension of discovery sought in this matter. This requested extension
 8 should be granted as good cause exists and there will be no prejudice or undue delay to any of the
 9 parties.

10 **PROPOSED SCHEDULING ORDER**

11 The parties stipulated to the following new discovery deadlines:

- 12 a. Discovery Cut-Off Date: **August 9, 2021** (formerly May 10, 2021)
- 13 b. Amending the Pleadings and Adding Parties: This deadline has already
 14 expired and shall not be extended.
- 15 c. Initial Expert Disclosure: **June 10, 2021** (formerly March 11, 2021)
- 16 a. Rebuttal Expert Disclosure: **July 12, 2021** (formerly April 12, 2021)
- 17 d. Dispositive Motions: **September 8, 2021** (formerly June 9, 2021)
- 18 e. Pretrial Order: **October 8, 2021** (formerly July 9, 2021), unless pursuant to
 19 LR 26.1(e)(5), if dispositive motions are filed, this date will be suspended
 20 until 30 days after decision on the dispositive motions or further order of the
 21 Court.

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Therefore, the parties respectfully request that the Court enter an order approving the proposed discovery schedule as set forth above.

DATED this 18th day of February, 2021.

**ALBRIGHT, STODDARD, WARNICK
& ALBRIGHT**

/s/ Jorge L. Alvarez, Esq.

G. MARK ALBRIGHT, ESQ., #1394
JORGE L. ALVAREZ, ESQ., #14466
801 South Rancho Drive, Suite D4
Las Vegas, Nevada 89106
T: 702.384.7111 / F: 702.384.0605

Attorneys for Plaintiffs

ARMSTRONG TEASDALE LLP

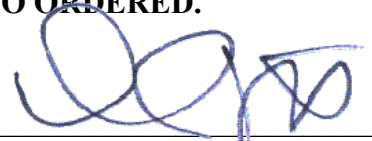
/s/ Michelle D. Alarie, Esq.

MICHELLE D. ALARIE, ESQ.
Nevada Bar No. 11894
3770 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169
T: 702.678.5070 / F: 702.878.9995

Attorneys for Defendants

ORDER

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

DATED: February 19, 2021

LAW OFFICES
ALBRIGHT, STODDARD, WARNICK & ALBRIGHT
A PROFESSIONAL CORPORATION
QUAIL PARK, SUITE D-4
801 SOUTH RANCHO DRIVE
LAS VEGAS, NEVADA 89106
LAS VEGAS, NEVADA 89106

Andrea Brebbia

From: Jorge Alvarez
Sent: Thursday, February 18, 2021 4:49 PM
To: Michelle D. Alarie
Cc: Andrea Brebbia
Subject: RE: Coffee v. Wyndham; LII 26-6 Request to Meet and Confer [IWOV-IDOCS.FID3912839]

I agree with your proposed revisions. We will file it shortly.

Jorge L. Alvarez, Esq.
Albright, Stoddard, Warnick & Albright
801 So. Rancho Dr., Suite D-4
Las Vegas, NV 89106
Phone (702) 384-7111
Fax (702)-384-0605
jalvarez@albrightstoddard.com

From: Michelle D. Alarie <MAlarie@atlpl.com>
Sent: Thursday, February 18, 2021 4:39 PM
To: Jorge Alvarez <jalvarez@albrightstoddard.com>
Subject: RE: Coffee v. Wyndham; LII 26-6 Request to Meet and Confer [IWOV-IDOCS.FID3912839]

Jorge,

Redline attached. I changed it primarily to make it a stipulation and order. I know the court denied the last one, but I think this one contains the "good cause" that was missing from the last one. Let me know if you have any issues.

If you are in agreement to my changes, you have my consent to affix my e-signature for filing.

Thank you,



Armstrong Teasdale LLP
Michelle D. Alarie | Associate
DIRECT: 702.415.2946 | FAX: 702.977.7483 | MAIN OFFICE: 702.678.5070



*** Please note my new email address, malarie@atlpl.com ***

From: Jorge Alvarez [<mailto:jalvarez@albrightstoddard.com>]
Sent: Thursday, February 18, 2021 3:20 PM
To: Michelle D. Alarie
Subject: RE: Chavez v. Wyndham; LII 26-6 Request to Meet and Confer [IWOV-IDOCS.FID3912839]

Michelle,

Please find attached hereto the proposed motion to extend discovery deadlines. Please let me know your revisions as soon as possible so that we can file it today.

Thanks,

Jorge L. Alvarez, Esq.
Albright, Stoddard, Warnick & Albright
801 So. Rancho Dr., Suite D-4
Las Vegas, NV 89106
Phone (702) 384-7111
Fax (702)-384-0605
jalvarez@albrightstoddard.com

From: Michelle D. Alarie <MAlarie@atllp.com>
Sent: Thursday, February 18, 2021 1:50 PM
To: Jorge Alvarez <jalvarez@albrightstoddard.com>
Subject: RE: Chavez v. Wyndham; LII 26-6 Request to Meet and Confer [IWOV-IDOCS.FID3912839]

Good afternoon Jorge,

I am available any time after 10:00 a.m. on Wednesday, February 24, 2021, for the meet and confer regarding the below issues. Send me an invite with the time that works for you.

With respect to the discovery extension, we are agreeable to moving out all dates, including the expert disclosure. But realistically, I don't know that 30 days will be enough if we have to file discovery motions and the court orders additional productions. Maybe request 90 days? Please prepare a stipulation for my review. I believe today is the deadline to file.

Thank you,



Armstrong Teasdale LLP

Michelle D. Alarie | Associate

DIRECT: 702.415.2946 | FAX: 702.977.7483 | MAIN OFFICE: 702.678.5070



*** Please note my new email address, malarie@atllp.com ***

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From: Jorge Alvarez [<mailto:jalvarez@albrightstoddard.com>]
Sent: Wednesday, February 17, 2021 5:27 PM
To: Michelle D. Alarie
Subject: Re: Chavez v. Wyndham; LII 26-6 Request to Meet and Confer

CAUTION: EXTERNAL EMAIL

Good afternoon Michelle,

Please find below an outline of the meet and confer topics (relating to Wyndham's responses to Plaintiffs' RFPD's) I would like to discuss with you when you get a chance. Please let me know your availability in the next few days.

Request # 3

Wyndham's training and/or sales manuals are perhaps the most relevant documents in this case. Our clients are making allegations regarding Wyndham's standardized sales practices and that pursuant to said sales practices, our clients were fraudulently induced to purchase the timeshare interests. We routinely receive these documents in timeshare cases we have litigated in arbitration.

Requests # 5; 19; 20; 21

We believe that consumer complaints against Wyndham (including consumer complaints relating to sales practices at the Las Vegas Sales Center) and the sales agents at issue in this case are relevant because they may reveal a pattern of sales practices similar to ones alleged in the complaint. Our clients are alleging that they were subject to a well-known and specific sales tactic "TAFT" and that the alleged misrepresentations came as a result of said standardized business practice. In addition, they are relevant impeachment evidence.

Request #6

This request merely seeks documentation relating to the valuation and pricing of the timeshare interests at issue in this case. One of the main allegations in dispute is whether Wyndham timeshare interests appreciate in value over time. The requested information is relevant to determine the market value of the timeshare interests/

Request #13

Your response indicates that Wyndham will produce documents relating to in-house timeshare exit programs. None of the documents produced relate to Wyndham 's in-house exit programs such as Ovation or Wyndham Cares and/or their eligibility criteria. These documents are relevant in light of the Coffee's allegations that Wyndham refused to buy their timeshare back from them and/or that Wyndham's in-house cancellation options were not available to them.

Request # 14

We believe this response is deficient in light of the allegations at issue in this case. If Wyndham has standardized procedures as it relates to selling and/or servicing timeshare interests to elderly consumers, they should be produced regardless of whether they were used for the particular timeshare product that our clients purchased. If Wyndham is taking the position that these policies were not in effect at the time the timeshare presentation took place, then the answer should be modified accordingly.

Request # 15

We believe that the personnel files are relevant to show the sales agents' employment history, whether the agents complied with all the annual training and licensing requirements under NRS and NAC 119A, and whether they had any internal disciplinary actions with Wyndham. These documents are also relevant impeachment evidence to the extent they may reveal consumer complaints asserted against these sales agents. To the extent Wyndham has concerns about confidentiality and/or privacy, the protected stipulated order should be sufficient to address these concerns.

To the extent Wyndham is withholding documents asserting work-product and/or attorney-client privilege, please produce the required privilege log. We may have additional objections to Wyndham's responses and this email should not be construed as a waiver of the same. With the expert disclosure deadline rapidly approaching, I request that we meet and confer about Wyndham's discovery responses no later than February 22, 2021, if possible. In light of the ongoing discovery dispute and the possibility that the Court will take several weeks to rule on a potential motion to compel, please let me know if you are willing to stipulate to extend the expert disclosure deadline by an additional 30 days.

Thanks,

Jorge L. Alvarez, Esq.
Albright, Stoddard, Warnick & Albright
801 So. Rancho Dr., Suite D-4
Las Vegas, NV 89106
Phone (702) 384-7111
Fax (702)-384-0605
jalvarez@albrightstoddard.com